

Representative Wayne A. Harper proposes the following substitute bill:

**SALES AND USE TAX EXEMPTION FOR
CERTAIN BUSINESS INPUTS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act to provide a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ provides a sales and use tax exemption for certain machinery, equipment, or repair or replacement parts purchased or leased by certain establishments relating to mining that are listed under the North American Industry Classification System;
- ▶ modifies State Tax Commission rulemaking authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Chapters 181, 182, 217, 218, 219, 220, 246, 268 and 346, Laws of Utah 2006

27 *Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **59-12-104** is amended to read:

29 **59-12-104. Exemptions.**

30 The following sales and uses are exempt from the taxes imposed by this chapter:

31 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
32 under Chapter 13, Motor and Special Fuel Tax Act;

33 (2) sales to the state, its institutions, and its political subdivisions; however, this
34 exemption does not apply to sales of:

35 (a) construction materials except:

36 (i) construction materials purchased by or on behalf of institutions of the public
37 education system as defined in Utah Constitution Article X, Section 2, provided the
38 construction materials are clearly identified and segregated and installed or converted to real
39 property which is owned by institutions of the public education system; and

40 (ii) construction materials purchased by the state, its institutions, or its political
41 subdivisions which are installed or converted to real property by employees of the state, its
42 institutions, or its political subdivisions; or

43 (b) tangible personal property in connection with the construction, operation,
44 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
45 providing additional project capacity, as defined in Section 11-13-103;

46 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

47 (i) the proceeds of each sale do not exceed \$1; and

48 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
49 the cost of the item described in Subsection (3)(b) as goods consumed; and

50 (b) Subsection (3)(a) applies to:

51 (i) food and food ingredients; or

52 (ii) prepared food;

53 (4) sales of the following to a commercial airline carrier for in-flight consumption:

54 (a) food and food ingredients;

55 (b) prepared food; or

56 (c) services related to Subsection (4)(a) or (b);

57 (5) sales of parts and equipment for installation in aircraft operated by common carriers

58 in interstate or foreign commerce;

59 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
60 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
61 exhibitor, distributor, or commercial television or radio broadcaster;

62 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
63 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
64 washing of tangible personal property;

65 (b) if a seller that sells at the same business location assisted cleaning or washing of
66 tangible personal property and cleaning or washing of tangible personal property that is not
67 assisted cleaning or washing of tangible personal property, the exemption described in
68 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
69 or washing of the tangible personal property; and

70 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
71 Utah Administrative Rulemaking Act, the commission may make rules:

72 (i) governing the circumstances under which sales are at the same business location;
73 and

74 (ii) establishing the procedures and requirements for a seller to separately account for
75 sales of assisted cleaning or washing of tangible personal property;

76 (8) sales made to or by religious or charitable institutions in the conduct of their regular
77 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
78 fulfilled;

79 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
80 this state if the vehicle is both not:

81 (a) registered in this state; and

82 (b) used in this state except as necessary to transport the vehicle to the borders of this
83 state;

84 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

85 (i) the item is intended for human use; and

86 (ii) (A) a prescription was issued for the item; or

87 (B) the item was purchased by a hospital or other medical facility; and

88 (b) (i) Subsection (10)(a) applies to:

- 89 (A) a drug;
- 90 (B) a syringe; or
- 91 (C) a stoma supply; and
- 92 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 93 commission may by rule define the terms:
 - 94 (A) "syringe"; or
 - 95 (B) "stoma supply";
 - 96 (11) sales or use of property, materials, or services used in the construction of or
 - 97 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
 - 98 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 99 (i) the following if the item described in Subsection (12)(c) is not available to the
 - 100 general public:
 - 101 (A) a church; or
 - 102 (B) a charitable institution;
 - 103 (ii) an institution of higher education if:
 - 104 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 105 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 106 offered by the institution of higher education; or
 - 107 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 108 (i) a medical facility; or
 - 109 (ii) a nursing facility; and
 - 110 (c) Subsections (12)(a) and (b) apply to:
 - 111 (i) food and food ingredients;
 - 112 (ii) prepared food; or
 - 113 (iii) alcoholic beverages;
 - 114 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
 - 115 by a person:
 - 116 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 117 property by that person; and
 - 118 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 119 property;

- 120 (b) this Subsection (13) does not apply if:
- 121 (i) the sale is one of a series of sales of a character to indicate that the person is
- 122 regularly engaged in the business of selling that type of tangible personal property;
- 123 (ii) the person holds that person out as regularly engaged in the business of selling that
- 124 type of tangible personal property;
- 125 (iii) the person sells an item of tangible personal property that the person purchased as
- 126 a sale that is exempt under Subsection (25); or
- 127 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 128 this state in which case the tax is based upon:
- 129 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 130 sold; or
- 131 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 132 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 133 commission; and
- 134 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 135 commission shall make rules establishing the circumstances under which:
- 136 (i) a person is regularly engaged in the business of selling a type of tangible personal
- 137 property;
- 138 (ii) a sale of tangible personal property is one of a series of sales of a character to
- 139 indicate that a person is regularly engaged in the business of selling that type of tangible
- 140 personal property; or
- 141 (iii) a person holds that person out as regularly engaged in the business of selling a type
- 142 of tangible personal property;
- 143 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
- 144 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
- 145 facility, for the following:
- 146 (i) machinery and equipment that:
- 147 (A) is used:
- 148 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
- 149 recycler described in Subsection 59-12-102(45)(b):
- 150 (Aa) in the manufacturing process; and

151 (Bb) to manufacture an item sold as tangible personal property; or
152 (II) for a manufacturing facility that is a scrap recycler described in Subsection
153 59-12-102(45)(b), to process an item sold as tangible personal property; and
154 (B) has an economic life of three or more years; and
155 (ii) normal operating repair or replacement parts that:
156 (A) have an economic life of three or more years; and
157 (B) are used:
158 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
159 scrap recycler described in Subsection 59-12-102(45)(b), in the manufacturing process; or
160 (II) for a manufacturing facility in the state that is a scrap recycler described in
161 Subsection 59-12-102(45)(b), to process an item sold as tangible personal property;
162 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
163 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
164 for the following:
165 (A) machinery and equipment that:
166 (I) is used:
167 (Aa) in the manufacturing process; and
168 (Bb) to manufacture an item sold as tangible personal property; and
169 (II) has an economic life of three or more years; and
170 (B) normal operating repair or replacement parts that:
171 (I) are used in the manufacturing process in a manufacturing facility in the state; and
172 (II) have an economic life of three or more years; and
173 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
174 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
175 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
176 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
177 and
178 (B) in accordance with Section 59-12-110;
179 (c) amounts paid or charged on or after July 1, 2007, for a purchase or lease by an
180 establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
181 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal

182 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
183 2002 North American Industry Classification System of the federal Executive Office of the
184 President, Office of Management and Budget:

185 (i) machinery and equipment that:

186 (A) are used in:

187 (I) the production process, other than the production of real property; or

188 (II) research and development; and

189 (B) have an economic life of three or more years; and

190 (ii) normal operating repair or replacement parts that:

191 (A) have an economic life of three or more years; and

192 (B) are used in:

193 (I) the production process, other than the production of real property, in an

194 establishment described in this Subsection (14)(c) in the state; or

195 (II) research and development in an establishment described in this Subsection (14)(c)

196 in the state;

197 ~~[(c)]~~ (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter
198 46a, Utah Administrative Rulemaking Act, the commission:

199 (i) shall by rule define the term "establishment"; and

200 (ii) may by rule define what constitutes;

201 (A) processing an item sold as tangible personal property;

202 (B) the production process, other than the production of real property; or

203 (C) research and development; and

204 ~~[(d)]~~ (e) on or before October 1, ~~[1991]~~ 2011, and every five years after October 1,

205 ~~[1991]~~ 2011, the commission shall:

206 (i) review the exemptions described in this Subsection (14) and make

207 recommendations to the Revenue and Taxation Interim Committee concerning whether the

208 exemptions should be continued, modified, or repealed; and

209 (ii) include in its report:

210 (A) the cost of the exemptions;

211 (B) the purpose and effectiveness of the exemptions; and

212 (C) the benefits of the exemptions to the state;

213 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
214 (i) tooling;
215 (ii) special tooling;
216 (iii) support equipment;
217 (iv) special test equipment; or
218 (v) parts used in the repairs or renovations of tooling or equipment described in
219 Subsections (15)(a)(i) through (iv); and
220 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
221 (i) the tooling, equipment, or parts are used or consumed exclusively in the
222 performance of any aerospace or electronics industry contract with the United States
223 government or any subcontract under that contract; and
224 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
225 title to the tooling, equipment, or parts is vested in the United States government as evidenced
226 by:
227 (A) a government identification tag placed on the tooling, equipment, or parts; or
228 (B) listing on a government-approved property record if placing a government
229 identification tag on the tooling, equipment, or parts is impractical;
230 (16) sales of newspapers or newspaper subscriptions;
231 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
232 as full or part payment of the purchase price, except that for purposes of calculating sales or use
233 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
234 the tax is based upon:
235 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
236 vehicle being traded in; or
237 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
238 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
239 commission; and
240 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
241 following items of tangible personal property traded in as full or part payment of the purchase
242 price:
243 (i) money;

244 (ii) electricity;
245 (iii) water;
246 (iv) gas; or
247 (v) steam;
248 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
249 used or consumed primarily and directly in farming operations, regardless of whether the
250 tangible personal property:
251 (A) becomes part of real estate; or
252 (B) is installed by a:
253 (I) farmer;
254 (II) contractor; or
255 (III) subcontractor; or
256 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
257 tangible personal property is exempt under Subsection (18)(a)(i); and
258 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
259 tangible personal property are subject to the taxes imposed by this chapter:
260 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
261 the tangible personal property is used in a manner that is incidental to farming:
262 (I) machinery;
263 (II) equipment;
264 (III) materials; or
265 (IV) supplies; and
266 (B) tangible personal property that is considered to be used in a manner that is
267 incidental to farming includes:
268 (I) hand tools; or
269 (II) maintenance and janitorial equipment and supplies;
270 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible
271 personal property is used in an activity other than farming; and
272 (B) tangible personal property that is considered to be used in an activity other than
273 farming includes:
274 (I) office equipment and supplies; or

- 275 (II) equipment and supplies used in:
- 276 (Aa) the sale or distribution of farm products;
- 277 (Bb) research; or
- 278 (Cc) transportation; or
- 279 (iii) a vehicle required to be registered by the laws of this state during the period ending
- 280 two years after the date of the vehicle's purchase;
- 281 (19) sales of hay;
- 282 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 283 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 284 garden, farm, or other agricultural produce is sold by:
- 285 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 286 agricultural produce;
- 287 (b) an employee of the producer described in Subsection (20)(a); or
- 288 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 289 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 290 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 291 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 292 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 293 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 294 manufacturer, processor, wholesaler, or retailer;
- 295 (23) property stored in the state for resale;
- 296 (24) property brought into the state by a nonresident for his or her own personal use or
- 297 enjoyment while within the state, except property purchased for use in Utah by a nonresident
- 298 living and working in Utah at the time of purchase;
- 299 (25) property purchased for resale in this state, in the regular course of business, either
- 300 in its original form or as an ingredient or component part of a manufactured or compounded
- 301 product;
- 302 (26) property upon which a sales or use tax was paid to some other state, or one of its
- 303 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 304 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 305 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

306 Act;

307 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
308 person for use in compounding a service taxable under the subsections;

309 (28) purchases made in accordance with the special supplemental nutrition program for
310 women, infants, and children established in 42 U.S.C. Sec. 1786;

311 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
312 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
313 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification

314 Manual of the federal Executive Office of the President, Office of Management and Budget;

315 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
316 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both
317 not:

318 (a) registered in this state; and

319 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard
320 motor to the borders of this state;

321 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
322 where a sales or use tax is not imposed, even if the title is passed in Utah;

323 (32) amounts paid for the purchase of telephone service for purposes of providing
324 telephone service;

325 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

326 (34) (a) 45% of the sales price of any new manufactured home; and

327 (b) 100% of the sales price of any used manufactured home;

328 (35) sales relating to schools and fundraising sales;

329 (36) sales or rentals of durable medical equipment if:

330 (a) a person presents a prescription for the durable medical equipment; and

331 (b) the durable medical equipment is used for home use only;

332 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
333 Section 72-11-102; and

334 (b) the commission shall by rule determine the method for calculating sales exempt
335 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

336 (38) sales to a ski resort of:

- 337 (a) snowmaking equipment;
- 338 (b) ski slope grooming equipment;
- 339 (c) passenger ropeways as defined in Section 72-11-102; or
- 340 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 341 described in Subsections (38)(a) through (c);
- 342 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 343 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 344 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 345 59-12-102;
- 346 (b) if a seller that sells or rents at the same business location the right to use or operate
- 347 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 348 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 349 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 350 amusement, entertainment, or recreation for the assisted amusement devices; and
- 351 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
- 352 Utah Administrative Rulemaking Act, the commission may make rules:
- 353 (i) governing the circumstances under which sales are at the same business location;
- 354 and
- 355 (ii) establishing the procedures and requirements for a seller to separately account for
- 356 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 357 assisted amusement devices;
- 358 (41) sales by the state or a political subdivision of the state, except state institutions of
- 359 higher education as defined in Section 53B-3-102, of:
- 360 (a) photocopies; or
- 361 (b) other copies of records held or maintained by the state or a political subdivision of
- 362 the state;
- 363 (42) amounts paid for admission to an athletic event at an institution of higher
- 364 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 365 20 U.S.C. Sec. 1681 et seq.;
- 366 (43) sales of telephone service charged to a prepaid telephone calling card;
- 367 (44) (a) sales of:

- 368 (i) hearing aids;
- 369 (ii) hearing aid accessories; or
- 370 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
- 371 of hearing aids or hearing aid accessories; and
- 372 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
- 373 "parts" does not include batteries;
- 374 (45) (a) sales made to or by:
 - 375 (i) an area agency on aging; or
 - 376 (ii) a senior citizen center owned by a county, city, or town; or
- 377 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 378 (46) sales or leases of semiconductor fabricating, processing, research, or development
- 379 materials regardless of whether the semiconductor fabricating, processing, research, or
- 380 development materials:
 - 381 (a) actually come into contact with a semiconductor; or
 - 382 (b) ultimately become incorporated into real property;
- 383 (47) an amount paid by or charged to a purchaser for accommodations and services
- 384 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 385 59-12-104.2;
- 386 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 387 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 388 specified on the temporary sports event registration certificate;
- 389 (49) sales or uses of electricity, if the sales or uses are:
 - 390 (a) made under a tariff adopted by the Public Service Commission of Utah only for
 - 391 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
 - 392 source, as designated in the tariff by the Public Service Commission of Utah; and
 - 393 (b) for an amount of electricity that is:
 - 394 (i) unrelated to the amount of electricity used by the person purchasing the electricity
 - 395 under the tariff described in Subsection (49)(a); and
 - 396 (ii) equivalent to the number of kilowatthours specified in the tariff described in
 - 397 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);
 - 398 (50) sales or rentals of mobility enhancing equipment if a person presents a

399 prescription for the mobility enhancing equipment;
400 (51) sales of water in a:
401 (a) pipe;
402 (b) conduit;
403 (c) ditch; or
404 (d) reservoir;
405 (52) sales of currency or coinage that constitute legal tender of the United States or of a
406 foreign nation;
407 (53) (a) sales of an item described in Subsection (53)(b) if the item:
408 (i) does not constitute legal tender of any nation; and
409 (ii) has a gold, silver, or platinum content of 80% or more; and
410 (b) Subsection (53)(a) applies to a gold, silver, or platinum:
411 (i) ingot;
412 (ii) bar;
413 (iii) medallion; or
414 (iv) decorative coin;
415 (54) amounts paid on a sale-leaseback transaction;
416 (55) sales of a prosthetic device:
417 (a) for use on or in a human;
418 (b) for which a prescription is issued; and
419 (c) to a person that presents a prescription for the prosthetic device;
420 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
421 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
422 or equipment is primarily used in the production or postproduction of the following media for
423 commercial distribution:
424 (i) a motion picture;
425 (ii) a television program;
426 (iii) a movie made for television;
427 (iv) a music video;
428 (v) a commercial;
429 (vi) a documentary; or

430 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
431 commission by administrative rule made in accordance with Subsection (56)(d); or

432 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
433 equipment by an establishment described in Subsection (56)(c) that is used for the production
434 or postproduction of the following are subject to the taxes imposed by this chapter:

435 (i) a live musical performance;

436 (ii) a live news program; or

437 (iii) a live sporting event;

438 (c) the following establishments listed in the 1997 North American Industry
439 Classification System of the federal Executive Office of the President, Office of Management
440 and Budget, apply to Subsections (56)(a) and (b):

441 (i) NAICS Code 512110; or

442 (ii) NAICS Code 51219; and

443 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
444 commission may by rule:

445 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);

446 or

447 (ii) define:

448 (A) "commercial distribution";

449 (B) "live musical performance";

450 (C) "live news program"; or

451 (D) "live sporting event";

452 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
453 or before June 30, 2009, of machinery or equipment that:

454 (i) is leased or purchased for or by a facility that:

455 (A) is a renewable energy production facility;

456 (B) is located in the state; and

457 (C) (I) becomes operational on or after July 1, 2004; or

458 (II) has its generation capacity increased by one or more megawatts on or after July 1,
459 2004 as a result of the use of the machinery or equipment;

460 (ii) has an economic life of five or more years; and

461 (iii) is used to make the facility or the increase in capacity of the facility described in
462 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
463 transmission grid including:

- 464 (A) a wind turbine;
- 465 (B) generating equipment;
- 466 (C) a control and monitoring system;
- 467 (D) a power line;
- 468 (E) substation equipment;
- 469 (F) lighting;
- 470 (G) fencing;
- 471 (H) pipes; or
- 472 (I) other equipment used for locating a power line or pole; and

473 (b) this Subsection (57) does not apply to:

- 474 (i) machinery or equipment used in construction of:
 - 475 (A) a new renewable energy production facility; or
 - 476 (B) the increase in the capacity of a renewable energy production facility;
- 477 (ii) contracted services required for construction and routine maintenance activities;

478 and

479 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
480 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
481 acquired after:

- 482 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
483 operational as described in Subsection (57)(a)(iii); or
- 484 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
485 in Subsection (57)(a)(iii);

486 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
487 or before June 30, 2009, of machinery or equipment that:

- 488 (i) is leased or purchased for or by a facility that:
 - 489 (A) is a waste energy production facility;
 - 490 (B) is located in the state; and
- 491 (C) (I) becomes operational on or after July 1, 2004; or

492 (II) has its generation capacity increased by one or more megawatts on or after July 1,
493 2004 as a result of the use of the machinery or equipment;

494 (ii) has an economic life of five or more years; and

495 (iii) is used to make the facility or the increase in capacity of the facility described in
496 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
497 transmission grid including:

498 (A) generating equipment;

499 (B) a control and monitoring system;

500 (C) a power line;

501 (D) substation equipment;

502 (E) lighting;

503 (F) fencing;

504 (G) pipes; or

505 (H) other equipment used for locating a power line or pole; and

506 (b) this Subsection (58) does not apply to:

507 (i) machinery or equipment used in construction of:

508 (A) a new waste energy facility; or

509 (B) the increase in the capacity of a waste energy facility;

510 (ii) contracted services required for construction and routine maintenance activities;

511 and

512 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
513 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

514 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
515 described in Subsection (58)(a)(iii); or

516 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
517 in Subsection (58)(a)(iii);

518 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
519 or before June 30, 2009, of machinery or equipment that:

520 (i) is leased or purchased for or by a facility that:

521 (A) is located in the state;

522 (B) produces fuel from biomass energy including:

523 (I) methanol; or
524 (II) ethanol; and
525 (C) (I) becomes operational on or after July 1, 2004; or
526 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
527 a result of the installation of the machinery or equipment;
528 (ii) has an economic life of five or more years; and
529 (iii) is installed on the facility described in Subsection (59)(a)(i);
530 (b) this Subsection (59) does not apply to:
531 (i) machinery or equipment used in construction of:
532 (A) a new facility described in Subsection (59)(a)(i); or
533 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
534 (ii) contracted services required for construction and routine maintenance activities;
535 and
536 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
537 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
538 (A) the facility described in Subsection (59)(a)(i) is operational; or
539 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
540 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
541 for purchasing the new vehicle;
542 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
543 within this state that is subsequently shipped outside the state and incorporated pursuant to
544 contract into and becomes a part of real property located outside of this state, except to the
545 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
546 transaction excise tax on it against which the other state or political entity allows a credit for
547 taxes imposed by this chapter; and
548 (b) the exemption provided for in Subsection (61)(a):
549 (i) is allowed only if the exemption is applied:
550 (A) in calculating the purchase price of the tangible personal property; and
551 (B) to a written contract that is in effect on July 1, 2004; and
552 (ii) (A) does not apply beginning on the day on which the contract described in
553 Subsection (61)(b)(i):

- 554 (I) is substantially modified; or
555 (II) terminates; and
556 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
557 the commission may by rule prescribe the circumstances under which a contract is substantially
558 modified;
- 559 (62) purchases:
560 (a) of one or more of the following items in printed or electronic format:
561 (i) a list containing information that includes one or more:
562 (A) names; or
563 (B) addresses; or
564 (ii) a database containing information that includes one or more:
565 (A) names; or
566 (B) addresses; and
567 (b) used to send direct mail;
- 568 (63) redemptions or repurchases of property by a person if that property was:
569 (a) delivered to a pawnbroker as part of a pawn transaction; and
570 (b) redeemed or repurchased within the time period established in a written agreement
571 between the person and the pawnbroker for redeeming or repurchasing the property;
- 572 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:
573 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
574 (ii) has a useful economic life of one or more years; and
575 (b) the following apply to Subsection (64)(a):
576 (i) telecommunications enabling or facilitating equipment, machinery, or software;
577 (ii) telecommunications equipment, machinery, or software required for 911 service;
578 (iii) telecommunications maintenance or repair equipment, machinery, or software;
579 (iv) telecommunications switching or routing equipment, machinery, or software; or
580 (v) telecommunications transmission equipment, machinery, or software; and
581 (65) (a) beginning on July 1, 2006 and ending on June 30, 2016, purchases of tangible
582 personal property used in the research and development of coal-to-liquids, oil shale, or tar
583 sands technology; and
584 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

585 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
586 tangible personal property used in the research and development of coal-to-liquids, oil shale,
587 and tar sands technology.

S.B. 142 1st Sub. (Green) - Sales and Use Tax Exemption for Certain Business Inputs

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill could decrease the General Fund by \$4,862,000 in FY 2008 and by \$5,013,000 in FY 2009.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$4,862,000)	(\$5,013,000)
Total	\$0	\$0	\$0	\$0	(\$4,862,000)	(\$5,013,000)

Individual, Business and/or Local Impact

Enactment of this bill could decrease local revenue by \$1,668,000 in FY 2008 and by \$1,720,000 in FY 2009. Business impact will vary depending on the specific inputs purchased by impacted industries.